

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's own motion to improve distribution level interconnection rules and regulations for certain classes of electric generators and electric storage resources.

Rulemaking 11-09-011
(Filed September 22, 2011)

DECISION GRANTING INTERVENOR COMPENSATION TO THE VOTE SOLAR INITIATIVE FOR SUBSTANTIAL CONTRIBUTION TO DECISION 12-09-018

Claimant: The Vote Solar Initiative (Vote Solar)	For contribution to Decision (D.) 12-09-018
Claimed: \$38,311.00	Awarded: \$37,587.00 (reduced 2%)
Assigned Commissioner: Michel Peter Florio	Assigned ALJ: Regina DeAngelis

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	As stated on page 2 of D.12-09-018, the decision "adopts in full a settlement that presents, among other things, a fundamentally reformed Electric Tariff Rule 21. Rule 21 governs the interconnection by electric generating facilities to the distribution systems of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E). The settlement was submitted to the Commission on March 16, 2012, by fourteen parties following eight months of negotiations.... In approving the settlement [the Commission adopts] the first fundamental redesign of Rule 21... since 2000."
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B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	2/16/2012	Correct
2. Other Specified Date for NOI:	10/27/2011	Correct

3. Date NOI Filed:	10/24/2011	Correct
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	Rulemaking (R.) 10-05-006	Correct
6. Date of ALJ ruling:	3/3/2011	Correct
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.10-05-006	Correct
10. Date of ALJ ruling:	3/3/2011	Correct
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804):		
13. Identify Final Decision:	D.12-09-018	Correct
14. Date of Issuance of Final Order or Decision:	9/20/2012	Correct
15. File date of compensation request:	11/19/2012	Correct
16. Was the request for compensation timely?		Yes

PART II: SUBSTANTIAL CONTRIBUTION

A. In the fields below, describe in a concise manner Claimant’s contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059).

Contribution All contributions include a reference to the corresponding issue area(s) included in Attachment B	Specific References to Claimant’s Presentations and to Decision	Showing Accepted by CPUC
1. Vote Solar sought to clearly identify the appropriate interconnection resource process for all types of generation resources seeking interconnection to the distribution system. (ISSUES A and D).	“The Proposed Settlement responds to issues framed by this rulemaking, including, defining the appropriate interconnection study process for all types of generation resources seeking interconnection to the distribution system, creating distribution-level interconnection procedures for storage technologies, and evaluating and determining appropriate processes for establishing distribution-level interconnection queues (serial or cluster).”	Yes

	<p><i>Findings of Fact 2, D.12-09-018, at 57.</i></p> <p>“As a result, a patchwork approach has developed with the application of Rule 21 to the Commission’s distributed generation programs. [T]oday the approach results in uncertainty, lack of transparency, and the risk of differential treatment of otherwise similarly situated developers of distributed generation. These circumstances are contributing factors to the need for reform of Rule 21 and, recently, to [the Commission’s] expressed commitment to review how Rule 21 applies to the Commission’s various distributed generation programs....Upon the effective date of the Revised Rule 21, [the Commission intends] to address the issue of the applicability of Rule 21 to specific Commission distributed generation programs.” <i>D.12-09-018, at 14-15, citations omitted.</i></p> <p>“Vote Solar suggests... that Issue 1 on pages 5 through 6 of the OIR be expanded to include a clear understanding of whether a customer seeking distribution level interconnection must proceed with: 1) only Rule 21; 2) only WDAT; 3) either Rule 21 or WDAT; or a serial combination such as Rule 21 first, and then WDAT. Along with addressing the Issues already referenced in the OIR, Vote Solar believes clear resolution regarding the applicability of each tariff would be very helpful.” <i>Vote Solar Opening Comments on OIR filed on October 24, 2011, at 2.</i></p>	
2. Vote Solar supported the robust review and update of engineering criteria tests that enable the expediting of interconnection requests, including Fast Track Screening. (ISSUE B).	<p>“The Proposed Settlement supports the broad goals of the Commission regarding transparency, predictability, and timeliness of the distribution level interconnection process by presenting improved efficiency and orderliness within interconnection protocols, creating a Fast Track process for smaller generators...” <i>Findings of Fact 3, D.12-09-018, at 57.</i></p>	Yes

	<i>CONFIDENTIAL/SUBJECT TO SETTLEMENT</i> <i>Vote Solar Comments on the Technical Framework, served on parties and submitted to Commission Staff on November 3, 2011.</i>	
3. Vote Solar strongly advocated for the review and update of data gathering, reporting, due dates and other issues related to utility accountability and processing efficiency. (ISSUE C).	<p>“The Proposed Settlement makes certain recommendations for additional Commission Staff oversight or involvement.” <i>Findings of Fact 6, D.12-09-018, at 58.</i></p> <p>“The Proposed Settlement is reasonable in light of the whole record because it... furthers the broader goals of the Commission to achieve greater transparency, predictability, and timeliness of the distribution level interconnection process as set out in Rule 21.” <i>Conclusions of Law 1, D.12-09-018, at 59.</i></p> <p>“The Proposed Settlement serves the public interest by making certain recommendations for additional Commission Staff oversight of the utilities’ implementation of the Revised Rule 21.” <i>Conclusions of Law 5, D.12-09-018, at 60.</i></p> <p>“The Proposed Settlement recommends additional oversight of the utilities’ implementation of the Revised Rule 21 by Commission Staff. [The Commission finds] these recommendations have merit and will seek to implement them to the extent possible.” <i>D.12-09-018, at 36.</i></p> <p>Vote Solar emphasized “the importance of... increased Rule 21 Tariff compliance oversight.” <i>Vote Solar Opening Comments on PD filed on September 4, 2012, at 1.</i></p>	Yes
4. Vote Solar led the effort to ensure that technical improvements to Rule 21 would move forward while cost allocation policy issues would be addressed in a later phase of the proceeding. (ISSUE E).	“The Proposed Settlement makes certain recommendations for issues to be included in phase 2 of this proceeding. These recommendations are requests that the Commission make its best efforts, as it deems appropriate, to implement the recommendations and in no manner do these provisions bind the Commission in either	Yes

	<p>making such efforts or as to the final outcome of such efforts.” <i>Findings of Fact 7, D.12-09-018, at 58.</i></p> <p>“it is reasonable to find that the public interest will be served by taking into consideration the Joint Settlement Parties’ recommendations when the assigned Commissioner and ALJ define the issues to be addressed in phase 2.” <i>D.12-09-018, at 38.</i></p> <p>Vote Solar emphasized “the importance of ... a robust Phase 2 addressing the issues outlined in the Settlement...” <i>Vote Solar Opening Comments on PD filed on September 4, 2012, at 1.</i></p>	
<p>5. Vote Solar participated fully and robustly in the settlement process that resulted in the settlement agreement adopted in Phase 1. Vote Solar’s participation included: a) attendance at all, or nearly all, settlement workshops and negotiations; b) collaboration with many other parties, including initiating and leading those collaborations; and c) drafting important pleadings and other documents supporting the settlement agreement and resolution of Phase 1. (ISSUES A-F).</p>	<p>The Proposed Settlement attached to the March 16, 2012 Motion for Approval of Settlement Agreement Revising Distribution Level Interconnection Rules and Regulations (Attachment A) hereto is adopted in full. <i>Ordering Paragraph 1, D.12-09-018, at 60.</i></p> <p>The Proposed Settlement is reasonable in light of the whole record, consistent with law, and in the public interest. As such, the Proposed Settlement should be adopted in full. <i>Conclusions of Law 7, D.12-09-018, at 60.</i></p> <p>Vote Solar is a party to the settlement agreement approved by the Commission. <i>Motion for Approval of Settlement Agreement filed on March 16, 2012, at 1.</i></p> <p>Vote Solar drafted a motion for addressing interim procedures, enabling the parties to continue work on key items pending filing and approval of the settlement agreement. <i>Motion of The Vote Solar Initiative to Adopt an Interim Procedure filed on March 2, 2012.</i></p> <p>Vote Solar drafted substantial portions of the settlement agreement. <i>Motion for Approval</i></p>	Yes

	<i>of Settlement Agreement filed on March 16, 2012, attached Settlement Agreement Between the parties.</i>	
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B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA)¹ a party to the proceeding?	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified
c. If so, provide name of other parties: Sierra Club, CEERT, SEIA, IREC, Clean Coalition, Aloha Systems, SCE, Sustainable Conservation, Sunlight Partners, Marcus V Da Cunha, and Absolutely Solar.		Verified
d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party: ORA's positions were not very well aligned with Vote Solar and other similar parties' positions, and ORA opposed the settlement agreement (which Vote Solar and most of the similarly situated parties supported). For these reasons, very little to no coordination to avoid duplication with ORA was conducted by Vote Solar. With respect to the other parties named in Section 10.c, Vote Solar initiated and led discussions and activities intended to explore coordinated advocacy, the development of joint strategies, and the avoidance of duplication by these parties. This effort became known as the Joint Environmental and Producer Parties, or JEPP. Pursuant to this effort, Vote Solar hosted numerous meetings, drafted communications and position statements, and acted as a liaison between JEPP and other parties and Commission Staff. A key element of JEPP related work performed by Vote Solar was the development of the pre application report framework, a version of which is embodied in the current Rule 21 Tariff. The JEPP group ultimately separated, but CEERT, Sierra Club and Vote Solar remained in coalition and continued joint advocacy for the remainder of Phase 1 of the proceeding. This coalition became known as CSV, and ultimately submitted a joint settlement proposal, much of which		Verified

¹ The Division of Ratepayer Advocates (DRA) was renamed the Office of Ratepayer Advocates (ORA) effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013), which was approved by the Governor on September 26, 2013.

is embodied in the Commission approved settlement agreement. CSV also continued to coordinate closely with SEIA.	
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§§ 1801 & 1806):

a. Concise explanation as to how the cost of Claimant's participation bears a reasonable relationship with benefits realized through participation:	CPUC Verified
<p>Vote Solar's participation in this proceeding was directed at policy and environmental matters, and therefore ascertaining direct benefits, in terms of actual dollars, to ratepayers is essentially impossible.</p> <p>Nevertheless, Vote Solar's actions as an individual party, as well as through actions brought through participation with JEPP and CSV, helped bring about significant changes to the Rule 21 tariff, including providing clear guidance to clean distributed generation producers on the appropriate process for seeking interconnection, expanding expedited interconnection review and criteria, and increasing transparency and accountability. All of these outcomes encourage greater penetration of clean, distributed energy in California, and thus are entirely consistent with D.88-04-066, which states:</p> <p style="padding-left: 40px;"><i>With respect to environmental groups, [the Commission has] concluded they were eligible in the past with the understanding that they represent customers whose environmental interests include the concern that, e.g., regulatory policies encourage the adoption of all cost-effective conservation measures and discourage unnecessary new generating resources that are expensive and environmentally damaging. They represent customers who have a concern for the environment which distinguishes their interests from the interests represented by Commission staff, for example. (mimeo. at p.3.)</i></p> <p>Ultimately, Vote Solar's membership, which now includes over 10,000 Californians, are directly benefitted by the above described advocacy in that it directly addresses their environmental concerns and desire to see the full potential of distributed solar solutions realized. All Californians, including Californian investor owned utility customers, also benefit, albeit more generally and indirectly, from Vote Solar's mission to fight global warming, increase energy independence, decrease fossil fuel dependence, and foster economic development by bringing solar energy into the mainstream.</p>	<p>Verified</p>

<p>b. Reasonableness of Hours Claimed.</p> <p>Vote Solar is a small, tightly staffed and budgeted organization with a very “flat” management structure. Accordingly (and unfortunately) Vote Solar does not have the resources to “delegate” work from senior to more junior staff. The “lead” attorney, Ms. Kelly Foley, is the only in house attorney at Vote Solar and the only employee, attorney or otherwise, dedicated full time to California issues.</p> <p>In recognizing that Foley is a senior attorney theoretically eligible to bill at a fairly high rate, she compensated for her inability to delegate work by applying up front reduction of her work hours as appropriate, or with respect to preparing intervenor compensation related filings, reducing her rate by more than required by the Commission. Furthermore, Vote Solar continuously strives, whenever practical or possible, to narrow participation to areas where Vote Solar is more likely to bring a unique voice, perspective or contribution.</p> <p>In this proceeding, Vote Solar also relied on pro bono technical assistance, thus eliminating the need to seek additional compensation in this area.</p>	<p>Verified</p>
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B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Kelly Foley	2011	65.5	\$325	New Rate Request, see Attachment D	\$21,320.00	65.5	\$325	\$21,287.50
Kelly Foley	2012	46.9	\$350	New Rate Request, see Attachment D	\$16,415.00	46.9	\$330 ²	\$15,477.00
Subtotal: \$37,735.00						Subtotal: \$36,764.50		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Kelly Foley	2011	1.0	\$108	1/3 of New Rate Request, see Attachment D	\$108.00	1	\$162.50	\$162.50
Kelly Foley	2012	4.0	\$117	1/3 of New Rate Request, see Attachment D	\$468.00	4	\$165	\$660.00
Subtotal: \$576.00						Subtotal: \$822.50		

² Consistent with D.13-10-034.

TOTAL REQUEST: \$38,311.00			TOTAL AWARD: \$37,587.00
<p>*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly.</p>			
Attorney	Date Admitted to CA BAR ³	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
Kelly Foley	August 2, 1994	171536	Please note Foley was an inactive member of the state bar from 2-1-2010 until 8-9-2010.

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
A	Certificate of Service
B	Allocation of Time By Issue
C	Time Records
D	Request for New Hourly Rate

D. CPUC Disallowances & Adjustments

Item	Reason
1. Adoption of Foley's hourly rate(s).	We adopt an hourly rate for Foley of \$325 for 2011 and \$330 for 2012. This is Foley's first request for a rate from the Commission's intervenor compensation program. Foley has been practicing law as a member of the California bar for 18 years, with 15 years as an energy regulatory attorney practicing before the Commission. The hourly rate of \$325 for 2011 reflects a reasonable rate for an attorney of Foley's 13+ years of experience per the guidelines of Resolution ALJ-267. We apply the 2.2% Cost of Living Increase to Foley's 2011 hourly rate, as per Resolution ALJ-281, to adopt an hourly rate of \$330 for Foley in 2012.

³ This information may be obtained at: <http://www.calbar.ca.gov/>.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(2)(6))?	Yes

FINDINGS OF FACT

1. Vote Solar has made a substantial contribution to D.12-09-018.
2. The requested hourly rates for Vote Solar's representative are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses are reasonable and commensurate with the work performed.
4. The total of reasonable contribution is \$37,587.00.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. The Vote Solar Initiative is awarded \$37,587.00.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company shall pay The Vote Solar Initiative their respective shares of the award, based on their California-jurisdictional electric and gas revenues for the 2012 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning February 2, 2013, the 75th day after the filing of The Vote Solar Initiative's request, and continuing until full payment is made.

3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1209018		
Proceeding(s):	R1109011		
Author:	ALJ DeAngelis		
Payer(s):	Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Vote Solar Initiative	11/19/12	\$38,311.00	\$37,587.00	No	Adjustment to requested hourly rate for 2012.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Kelly	Foley	Attorney	Vote Solar	\$325	2011	\$325
Kelly	Foley	Attorney	Vote Solar	\$350	2012	\$330

(END OF APPENDIX)